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ATLANTA
LAWYERS DEBATE PLAN TO CHANGE INFORMATION ACT
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The question of whether changes should be made in the Freedom of Information Act to provide the federal government more or less "sunshine" were debated Friday at the American Bar Association convention.

Among issues the ABA's policy-making House of Delegates is expected to take up next week are whether the 1966 law passed by Congress to curtail government secrecy should apply to the government's spy agencies, and to agency documents no longer in the government's possession.

Whatever positions are adopted by the 280,000-lawyer association will become the subject of lobbying efforts in Congress, which already has several FOIA amendments under study.

Abner Mikva, a former congressman and now a federal appeals judge in Washington, told some of the 10,000 lawyers attending the convention that the ABA's Section on Individual Rights and Responsibilities opposes a proposal urging Congress to "grant significant relief from the FOIA for the intelligence agencies."

"We think (the proposal) represents an unwarranted, unwise and unnecessary departure from the current statutory scheme," Mikva said.

But Victoria Toensing, chief lawyer for the Senate Select Committee on Intelligence, said subjecting the Central Intelligence Agency and other government agencies dealing with national security matters to the FOIA creates "an overwhelming burden" that adds nothing to the public's knowledge of how its government works.

Another pair of proposals to be considered by the ABA's delegates center on the FOIA's definition of "agency record."

Under a 1980 Supreme Court decision, documents no longer in a government agency's possession - given to a government contractor, for instance - are exempt from the FOIA even when those documents were created solely at the government's request and were paid for with tax money.

"This decision constricted the FOIA from performing its acknowledged function of government accountability," said Priscilla Daves of Gainesville, Ga., who represented the National Federation of Press Women.

"A government paper trail that leads to the door of a private but government-funded contractor will be inscribed with invisible ink which only the contractor and a few chosen government officials will be able to read" if the law's definition of agency record is not expanded, Ms. Daves said.

One ABA committee would urge Congress to undertake that expansion by defining as an agency record "any record prepared on behalf of the agency through direct government funding if the agency has a right to obtain possession of such record and if such record was relied on by the agency in the performance of an agency function."

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